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09/880,474	06/12/2001	Jamal Benbrahim	IGT1P376/P000227-001	5212
79646 7590 12/27/2010 Weaver Austin Villeneuve & Sampson LLP - IGT Attn: IGT P.O. Box 70250 Oakland, CA 94612-0250			EXAMINER NIGH, JAMES D	
			ART UNIT 3685	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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USPTO@wavsip.com

Office Action Summary	Application No. 09/880,474	Applicant(s) BENBRAHIM, JAMAL	
	Examiner JAMES D. NIGH	Art Unit 3685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-22, 28-30 and 32-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-22, 28-30 and 32-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>14 October 2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 October 2009 has been entered.

Claim Status

2. Claims 1-17 were previously cancelled. With the introduction of the amendment filed on 14 October 2009, claims 23, 27 and 31 have been cancelled. Claims 18-22, 28-30, 32-38 and 40 have been amended. Claims 41-45 have been added. Currently claims 18-22, 28-30 and 32-45 are currently pending and are presented for examination on the merits.

Information Disclosure Statement

3. The information disclosure statement (IDS) was submitted on 14 October 2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Definition

4. **Jurisdiction:** authority of a sovereign power to govern or legislate; power or right to exercise authority, or the limits or territory within which any particular power may be exercised; sphere of authority. Copyright © Webster's Third New International Dictionary, Unabridged, Copyright © 1993 Merriam-Webster, Incorporated. Published under license from Merriam-Webster, Incorporated

Response to Arguments

5. Applicant's arguments with respect to claims 18-40 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 36-39 and 41-44 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

8. Claim 36 is directed towards a computer readable medium but as written is broad enough in scope to encompass non-statutory embodiments such as carrier waves and transmission media which are non-statutory. When a claim is broad enough in scope to encompass both statutory and non-statutory embodiments the claim must be deemed as containing ineligible subject matter under 35 U.S.C. § 101 "A transitory, propagating signal like Nuijten's is not a 'process, machine, manufacture, or composition of matter'", *In re Nuijten*, 84 USPQ2d 1495 (Fed. Cir. 2007). The rejection may be overcome by either reciting "computer readable storage medium" or "non-transitory computer readable medium".

9. Claim 37 is directed towards a method but does not recite the particular machine performing the method steps, nor is there a physical transformation occurring on underlying subject matter. The recitations "sending to the gaming device" and "receiving from the gaming device" in the broadest reasonable interpretation in light of the specification are simply extra-solution activity. Based on Supreme Court precedent

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(See also *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) and *Bilski v. Kappos*, 95 USPQ2d 1001 (US 2010)), a §101 process must (1) be tied to a particular machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. In addition, the tie to a particular apparatus, for example, cannot be mere extra-solution activity.

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps.

To meet prong (1), the method step should positively recite the particular machine to which it is tied. This may be accomplished by having the claim positively recite the machine that accomplishes the method steps. Alternatively or to meet prong (2), the method step should positively recite identifying the material that is being changed to a different state or positively recite the subject matter that is being transformed.

In this particular case, claim 37 fails prong (1) because the “tie” (e.g. receiving from the gaming device) is representative of extra-solution activity. Additionally, the claim(s) fail prong (2) because the method steps do not transform the underlying subject matter to a different state or thing.

The rejection may be overcome by reciting the particular machine performing the method steps, such as “determining, by a gaming device, which one...”

10. Claim 38 is also rejection as being dependent upon claim 37

11. Claim 39 is directed towards a computer readable medium but as written is broad enough in scope to encompass non-statutory embodiments such as carrier waves and transmission media which are non-statutory. When a claim is broad enough in scope to encompass both statutory and non-statutory embodiments the claim must be deemed as containing ineligible subject matter under 35 U.S.C. § 101 “A transitory, propagating signal like Nuijten's is not a ‘process, machine, manufacture, or composition of matter’”, *In re Nuijten*, 84 USPQ2d 1495 (Fed. Cir. 2007). The rejection may be overcome by either reciting “computer readable storage medium” or “non-transitory computer readable medium”.

12. Claim 41 is directed towards a method but does not recite the particular machine performing the method steps, nor is there a physical transformation occurring on underlying subject matter. The recitation "receiving from the remote device" in the broadest reasonable interpretation in light of the specification are simply extra-solution activity. Based on Supreme Court precedent (See also *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) and *Bilski v. Kappos*, 95 USPQ2d 1001 (US 2010)), a §101 process must (1) be tied to a particular machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. In addition, the tie to a particular apparatus, for example, cannot be mere extra-solution activity.

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps.

To meet prong (1), the method step should positively recite the particular machine to which it is tied. This may be accomplished by having the claim positively recite the machine that accomplishes the method steps. Alternatively or to meet prong (2), the method step should positively recite identifying the material that is being changed to a different state or positively recite the subject matter that is being transformed.

In this particular case, claim 41 fails prong (1) because the “tie” (e.g. receiving from the remote device) is representative of extra-solution activity. Additionally, the claim(s) fail prong (2) because the method steps do not transform the underlying subject matter to a different state or thing.

The rejection may be overcome by reciting the particular machine performing the method steps, such as “receiving, by a gaming device, a plurality of blocks...”

13. Claims 42-44 are also rejected as being dependent upon claim 41.

Claim Rejections - 35 USC § 112

14. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

15. Claims 37-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

16. Claim 37 recites “determining which one of a plurality of encrypted blocks of game code is to be executed...” Claim 40 contains a similar recitation. While paragraph 0051 of Applicant’s disclosure recites that an operator may “decrypt only a specific portion or block of code/data from a group of code”, no teaching is provided regarding the making of a determination as to which blocks are to be executed.

17. Claim 37 recites “sending to the gaming device the first key...” and “sending to the gaming device the second key...” As the preamble only recites the gaming device and no other device is recited in the claim the claim is reciting new subject matter as no teaching is provided in Applicant’s disclosure of the gaming device sending the first and second key to the gaming device.

18. Claim 37 recites “attempting to authenticate the information...” As no teaching is provided of the gaming device performing this function this must be deemed as new subject matter. In addition the steps of “receiving from the gaming device” and “indicating to the gaming device...” must be deemed as new subject matter as again no teaching has been provided of the gaming device performing these functions.

19. Claim 38 recites “sending the gaming device...” As no teaching is provided of the gaming device performing this function this must be deemed as new subject matter.

20. Claims 38-39 are also rejected as being dependent upon claim 37.

21. Claims 20 and 37-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable

one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

22. Claim 20 recites "...using the first secure access module to decrypt the first or second game code". However Applicant's disclosure recites in paragraph 0031 "In one embodiment the SAM 62 includes a private key". In paragraph 0051 Applicant's disclosure recites "In one or more embodiments, a plurality of SAMs may be provided, each having a different private key associated therewith. In this arrangement, blocks of code may be encrypted with different private keys and then selectively decrypted, as is desired, using a particular SAM having the corresponding private key". Examiner is unable to find any teaching within Applicant's disclosure that indicates that a SAM is storing more than one private key; moreover claim 19 on which claim 20 depends only recites that the first key is stored within the SAM. Therefore it would be computationally infeasible to decrypt the second game code when the only key available is for decrypting the first game code. As such claim 20 must be rejected as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

23. Claim 37 recites "determining which one of a plurality of encrypted blocks of game code is to be executed..." Claim 40 contains a similar recitation. While paragraph 0051 of Applicant's disclosure recites that an operator may "decrypt only a specific portion or block of code/data from a group of code", no teaching is provided regarding the making of a determination as to which blocks are to be executed. As the

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recitation of an "operator" implies a human being no teaching has been provided that would instruct a human being on how to make this determination. While paragraphs 0047-0048 appear to suggest that the SAM might be able to make such a determination by virtue of having an appropriate decryption key at this point in the claim no decryption key is in possession of the gaming device/SAM which would appear to be necessary for making such a determination by a SAM as no other means of making such a determination is suggested by the disclosure. It is also noted that paragraph 0053 indicates that a SAM is not required in which event it is entirely unclear how this determination would be made. Examiner is also unable to find any teaching of a server or remote device performing this function.

24. Claims 38-39 are also rejected as being dependent upon claim 37.

25. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

26. Claims 18-22, 28-30 and 32-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

27. Claim 18 recites "receiving from a remote device...code necessary to operate a game..." Claims 22, 35, 36, 37, 40, 41 and 45 contain similar recitations. The term "necessary to operate" must be held as indefinite as the claim recites that the game code is encrypted but does not recite within the claim as to whether this comprises the full extent of what is "necessary to operate a game"; therefore the claim must be held as indefinite as potentially encompassing unrecited elements "An essential purpose of

patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed...”, *In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989).

28. Claim 18 recites “taking remedial action by the gaming device when the decrypted first or second game code is not authenticated by the remote device, wherein the remedial action includes not allowing the decrypted first or second game code to be executed by the gaming device”. Claim 36 contains similar recitations. However no step of receiving the authentication result from the remote device has been recited that would allow the gaming device to determine whether taking remedial action is necessary. Therefore the claim is rejected as being indefinite for failing to claim essential steps “An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed...”, *In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989). The rejection may be overcome by reciting a functional tie-in to structure within the claim, such as “computer-readable storage medium encoded with computer-executable instructions which when executed by a computer causes the computer to perform the steps of...”

29. Claim 18 recites “taking remedial action by the gaming device when the decrypted first or second game code is not authenticated by the remote device, wherein the remedial action includes not allowing the decrypted first or second game code to be executed by the gaming device”. However what was claimed as sent to the remote device was not game code, but “information relating to the decrypted first or second game code”. It is therefore unclear how the game code could be authenticated by the

remote device when it was not disclosed as being sent to the remote device. “An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed...”, *In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989). The rejection may be overcome by reciting a functional tie-in to structure within the claim, such as “computer-readable storage medium encoded with computer-executable instructions which when executed by a computer causes the computer to perform the steps of...”

30. Claim 18 recites “taking remedial action by the gaming device when the decrypted first or second game code is not authenticated by the remote device, wherein the remedial action includes not allowing the decrypted first or second game code to be executed by the gaming device”. Claims 22, 35 and 45 contain similar recitations. The term “remedial” is a relative term where neither the claim nor the specification recite what is encompassed by the term “remedial”. “An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed...”, *In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989). The rejection may be overcome by reciting a functional tie-in to structure within the claim, such as “computer-readable storage medium encoded with computer-executable instructions which when executed by a computer causes the computer to perform the steps of...”

31. Claim 18 recites “storing the decrypted first or second game code on the gaming device when the decrypted first or second game code is authenticated by the remote device”. Claim 45 contains a similar recitation. As the recited game code has already

been decrypted by the gaming device it is unclear how the gaming device could perform the operation of decrypting the code without also storing the code as part of the process. Moreover information relating to the decrypted game code has been claimed as being sent to the remote device. Therefore it is unclear if an essential step of erasing the code on the gaming device subsequent to the decrypting step has been omitted or alternatively it is unclear as to what is comprised by the recitation "storing the decrypted first or second game code on the gaming device when the decrypted first or second game code is authenticated by the remote device" when the code would necessarily be in the device memory subsequent to the step of decrypting "An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed...", *In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989). For purposes of claim interpretation the act of decrypting will also encompass the act of storing.

32. Claim 19 recites "...selecting a first secure access module in which the first key is stored". As claim 18 upon which claim 19 depends recites "receiving...from the remote device a private key..." and "wherein the private is the first key..." it is unclear how the first key could be stored within the secure access module when it has been claimed in claim 18 as having been received from the remote device and no subsequent operation has been claimed of storing the key in the secure access module.

33. Claim 32 recites "wherein the remedial action is to erase one of the first or second key or the decrypted first or second game code stored on the gaming device". However claim 18 upon which claim 32 depends recites the limitation of "taking

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remedial action..." followed by the limitation of "storing the decrypted first or second game code..." If the code has yet to be stored it is unclear how it could be erased.

34. Claim 36 is directed towards a computer readable medium and recites that the computer program code included on the computer readable medium is for performing acts such as "...receiving from a remote device executable game code..." However computer code included on a computer readable medium is not capable of performing acts absent any physical structure; therefore the claim is indefinite as no structural tie-in has been recited within the claim that would enable the computer program code to perform the recited acts "An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed...", *In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989). The rejection may be overcome by reciting a functional tie-in to structure within the claim, such as "computer-readable storage medium encoded with computer-executable instructions which when executed by a computer causes the computer to perform the steps of..."

35. Claim 37 recites "receiving from the gaming device information relating to first or second decrypted game code..." However no step has been recited of decrypting game code and the recited game code is only stated as being available in encrypted form. Therefore the claim must be held as indefinite for either lacking antecedent basis for the decrypted code or omitting an essential step of decrypting the encrypted code "An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be

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removed...”, *In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989). The rejection may be overcome by reciting a functional tie-in to structure within the claim, such as “computer-readable storage medium encoded with computer-executable instructions which when executed by a computer causes the computer to perform the steps of...”

36. Claim 39 is directed towards a computer readable medium and recites that the computer program code included on the computer readable medium is for performing the method of claim 37. However computer code included on a computer readable medium is not capable of performing acts absent any physical structure; therefore the claim is indefinite as no structural tie-in has been recited within the claim that would enable the computer program code to perform the recited acts “An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed...”, *In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989). The rejection may be overcome by reciting a functional tie-in to structure within the claim, such as “computer-readable storage medium encoded with computer-executable instructions which when executed by a computer causes the computer to perform the steps of...”, followed by the steps of the method.

37. Claims 19-21 and 32-34 are also rejected as being dependent upon claim 18.

38. Claims 24-26 and 28-30 are also rejected as being dependent upon claim 22.

39. Claims 38-39 are also rejected as being dependent upon claim 37.

40. Claims 42-44 are also rejected as being dependent upon claim 41.

Claim Rejections - 35 USC § 103

41. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

42. Claims 18, 21, 33-34, 36-40 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe (U.S. Patent 6,645,077, hereinafter referred to as Rowe) in view of Hind et al. (U.S. Patent 6,978,367, hereinafter referred to as Hind) and in further view of Alcorn et al. (U.S. Patent 6,149,522, hereinafter referred to as Alcorn).

43. As per claims 18 and 36

Rowe discloses receiving from a remote device encrypted executable code for a plurality of games (Abstract, Figure 3, 3:41-51, 5:57-58, 22:31-51)

Rowe discloses that the encrypted executable code includes first game code necessary to operate a game on the gaming device in a first jurisdiction (Figure 3, 13:50-65, 14:7-8)

Rowe discloses that the encrypted executable code includes second game code necessary to operate a game on the gaming device in a second jurisdiction (Figure 3, 13:50-65, 14:7-8)

Rowe discloses wherein the first game code includes a first set of operating data including at least one of first audio data or first video data for generating the game on the gaming device in the first jurisdiction, and wherein the second game code includes a

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second set of operating data including at least one of second audio data or second video data for generating the game on the gaming device in the second jurisdiction (Figures 2 and 3, 4:41-51, 9:50-65, 13:50-65).

Per claim 36 Rowe discloses a computer readable medium (8:35-39).

However Rowe does not explicitly disclose that the first set of code is encrypted with a first key associated with the first jurisdiction. Hind teaches that the first set of code is encrypted with a first key associated with the first jurisdiction (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50) (Examiner views the disclosure of the second and third policies with separate encryption keys and separate communities to be equivalent to "jurisdictions" per the definitions shown above).

Hind teaches that a second set of code encrypted with a second key is associated with a second jurisdiction (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches that the second set of code is not recoverable with the first key and the first set of code is not recoverable with the second key (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches wherein when the private key is the first key, and the local jurisdiction is the first jurisdiction, decrypting by the device the first set of code according to the first key to recover the first game code and the first set of operating data as decrypted first set of code and a decrypted first set of operating data, respectively

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(Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches wherein when the private key is the second key, and the local jurisdiction is the second jurisdiction, decrypting by the device the second set of code according to the second key to recover the second set of code and the second set of operating data as decrypted second set of code and decrypted second set of operating data, respectively (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches storing on the device the first set of code, including the first set of operating data, encrypted with the first key and the second set of code, including the second set of operating data, encrypted with the second key (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches executing the decrypted first or second set of code on the device using the decrypted first or second set of operating data (37:1-21) (As no definition of “operating data” has been supplied in the claim Examiner views the document of Hind to fall under the broadest reasonable interpretation of the term).

Hind teaches storing the decrypted first or second set of code on the device (37:1-21).

Hind teaches receiving a private key (29:42-51, 29:66-30:12)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for

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decryption by a client proxy of Hind for the purpose of providing a technique with which security policy can be efficiently enforced in a complex distributed network computing environment (5:28-30).

Neither Rowe nor Hind explicitly disclose authentication. Alcorn teaches authentication (Abstract, 2:47-65, 3:37-43, 8:32-9:16)

Alcorn teaches taking remedial action when the authentication fails (9:6-16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind further with the method of authenticating game data sets in an electronic casino gaming system of Alcorn for the purpose of being able to modify the game parameters of a game currently being played on a game system without requiring physical verification of new games or game modifying data sets.

However the recitation “wherein when the private key is the first key, and the local jurisdiction is the first jurisdiction, decrypting by the naming device the first game code according to the first key to recover the first game code and the first set of operating data as decrypted first game code and a decrypted first set of operating data, respectively” is not entitled to patentable weight as the steps recited can both be considered optional and are therefore not limiting per MPEP § 2106 II C.

The recitation “wherein when the private key is the second key, and the local jurisdiction is the second jurisdiction, decrypting by the gaming device the second game code according to the second key to recover the second game code and the second set

of operating data as decrypted second game code and decrypted second set of operating data, respectively” is not entitled to patentable weight as the steps recited can both be considered optional and are therefore not limiting per MPEP § 2106 II C.

The recitation “when the decrypted first or second game code is not authenticated by the remote device, wherein the remedial action includes not allowing the decrypted first or second game code to be executed by the gaming device” is not entitled to patentable weight as the steps recited can both be considered optional and are therefore not limiting per MPEP § 2106 II C.

The recitation “wherein the first game code includes a first set of operating data including at least one of first audio data or first video data for generating the game on the gaming device in the first jurisdiction, and wherein the second game code includes a second set of operating data including at least one of second audio data or second video data for generating the game on the gaming device in the second jurisdiction” is not entitled to patentable weight as no additional method step is recited and the “generating” is only suggested but never performed, per MPEP § 2106 II C; moreover as none of the other recited method steps exhibit any dependency on the nature of the game code it is simply analogous to printed matter “Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability [T]he critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate” *In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II.

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44. As per claim 21

Rowe further discloses storing game code at the gaming device (9:21-56)

45. As per claim 33

Rowe discloses game code (Figures 2 and 3, 4:41-51, 9:50-65, 13:50-65).

Hind teaches that first and second code is selectively encrypted (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind for the purpose of providing a technique with which security policy can be efficiently enforced in a complex distributed network computing environment (5:28-30).

Neither Rowe nor Hind teaches a digital signature. Alcorn teaches a digital signature (8:59-9:40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind further with the method of authenticating game data sets in an electronic casino gaming system of Alcorn for the purpose of being able to modify the game parameters of a game currently being played on a game system without requiring physical verification of new games or game modifying data sets.

However as the matching of digital signatures does not depend on the data being of a specific nature but only that the signature be calculated on the same data at both devices, the recitation regarding the data is simply non-functional descriptive material.

46. As per claim 34

Rowe discloses game code (Figures 2 and 3, 4:41-51, 9:50-65, 13:50-65).

Hind teaches that code is selectively encrypted (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind for the purpose of providing a technique with which security policy can be efficiently enforced in a complex distributed network computing environment (5:28-30).

Neither Rowe nor Hind teaches information relating to the code is sent to the remote device. Alcorn teaches information relating to the code being sent to the remote device (2:47-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind further with the method of authenticating game data sets in an electronic casino gaming system of Alcorn for the purpose of being able to

modify the game parameters of a game currently being played on a game system without requiring physical verification of new games or game modifying data sets.

However as the matching of digital signatures does not depend on the data being of a specific nature but only that the signature be calculated on the same data at both devices, the recitation regarding the data is simply non-functional descriptive material.

47. As per claims 37 and 40

Rowe discloses determining which one of a plurality of encrypted blocks of game code is to be executed by a gaming device (5:57-58, 8:23-39, 12:34-47, 13:58-65, claim 1) (Examiner notes that no specific definition of the term “blocks of game code” is contained within the claim, therefore in the broadest reasonable interpretation an entire game can be construed as “blocks of game code”)

Rowe discloses that the encrypted executable code includes first game code necessary to operate a game on the gaming device in a first jurisdiction (Figure 3, 13:50-65, 14:7-8)

Rowe discloses that the encrypted executable code includes second game code necessary to operate a game on the gaming device in a second jurisdiction (Figure 3, 13:50-65, 14:7-8)

However Rowe does not explicitly disclose that the first set of code includes code necessary to operate in a first venue. Hind teaches that the first set of code is encrypted with a first key necessary to operate in a first venue (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50) (Examiner views the disclosure of the second and third policies with separate encryption keys and

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separate communities to be equivalent to "jurisdictions" per the definitions shown above).

Hind teaches that a second set of code encrypted with a second key unnecessary to operate in the first venue and necessary to operate in a second venue (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches that the second set of code is not decryptable with the first key and the first set of code is not decryptable with the second key (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches sending keys appropriate to the venue (29:66-30:12)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind for the purpose of providing a technique with which security policy can be efficiently enforced in a complex distributed network computing environment (5:28-30).

Neither Rowe nor Hind explicitly disclose receiving information from the gaming device. Alcorn teaches a remote device receiving information relating to the code (2:47-65).

Alcorn teaches authentication of the code (Abstract, 2:47-65, 3:37-43, 8:32-9:16)

Alcorn teaches sending a message to the gaming device as to whether the code is authentic (9:9-16).

Alcorn teaches indicating that the code is not to be executed when the code is not authentic (9:6-16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind further with the method of authenticating game data sets in an electronic casino gaming system of Alcorn for the purpose of being able to modify the game parameters of a game currently being played on a game system without requiring physical verification of new games or game modifying data sets.

However with regard to claim 40 the recitation regarding “configured for and/or capable of...” is merely a recitation regarding the intended use of the gaming server and is not entitled to patentable weight as no structural limitations are recited. See MPEP § 2106 II C, MPEP § 2111.04 and MPEP § 2114.

In addition with regard to claim 40 the recitations regarding the nature of the game code are not entitled to patentable weight as these are merely non-functional descriptive material “Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability [T]he critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate” *In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II.

48. As per claim 38

Rowe further discloses sending the gaming device encrypted executable code for a plurality of games including a first game and a second game (5:57-58, 8:23-39, 12:34-47, 13:58-65).

49. As per claim 39

Rowe discloses a computer readable medium (8:35-39).

50. As per claim 45

Rowe discloses receiving from a remote device encrypted executable code for a plurality of games (5:57-58, 8:23-39, 12:34-47, 13:58-65, claims 3 and 6).

Rowe discloses wherein the first game code includes a first set of operating data including at least one of first audio data or first video data for generating the game on the gaming device in the first jurisdiction, and wherein the second game code includes a second set of operating data including at least one of second audio data or second video data for generating the game on the gaming device in the second jurisdiction (Figures 2 and 3, 4:41-51, 9:50-65, 13:50-65).

Rowe discloses storing on the gaming device encrypted executable code for the plurality of games (5:51-6:14, 21:3-45).

However Rowe does not explicitly disclose that the first set of code is encrypted with a first key associated with the first jurisdiction. Hind teaches that the first set of code is encrypted with a first key associated with the first jurisdiction (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50) (Examiner views the disclosure of the second and third policies with separate encryption keys and

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separate communities to be equivalent to "jurisdictions" per the definitions shown above).

Hind teaches that a second set of code encrypted with a second key is associated with a second jurisdiction (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches that the second set of code is not recoverable with the first key and the first set of code is not recoverable with the second key (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches wherein when the private key is the first key, and the local jurisdiction is the first jurisdiction, decrypting by the device the first set of code according to the first key to recover the first game code and the first set of operating data as decrypted first set of code and a decrypted first set of operating data, respectively (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches wherein when the private key is the second key, and the local jurisdiction is the second jurisdiction, decrypting by the device the second set of code according to the second key to recover the second set of code and the second set of operating data as decrypted second set of code and decrypted second set of operating data, respectively (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches storing on the device the first set of code, including the first set of operating data, encrypted with the first key and the second set of code, including the

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second set of operating data, encrypted with the second key (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches executing the decrypted first or second set of code on the device using the decrypted first or second set of operating data (37:1-21) (As no definition of “operating data” has been supplied in the claim Examiner views the document of Hind to fall under the broadest reasonable interpretation of the term).

Hinds teaches decrypting the code with the appropriate key (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50).

Hind teaches sending keys appropriate to the jurisdiction (29:66-30:12)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind for the purpose of providing a technique with which security policy can be efficiently enforced in a complex distributed network computing environment (5:28-30).

Neither Rowe nor Hind explicitly disclose authentication. Alcorn teaches authentication (Abstract, 2:47-65, 3:37-43, 8:32-9:16)

Alcorn teaches a remote device receiving information relating to the code (2:47-65).

Alcorn teaches taking remedial action when the authentication fails (9:6-16).

Alcorn teaches indicating that the code is not to be executed when the code is not authentic (9:6-16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind further with the method of authenticating game data sets in an electronic casino gaming system of Alcorn for the purpose of being able to modify the game parameters of a game currently being played on a game system without requiring physical verification of new games or game modifying data sets.

51. Claims 19-20, 22, 24-26, 29-30 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe in view of Hind in view of Alcorn as applied to claim 18 above, and further in view of Graunke et al (U.S. Patent 5,991,399, hereinafter referred to as Graunke).

52. As per claim 19

Rowe discloses game code, Hind teaches selective encryption, and Alcorn teaches authentication, however neither Rowe nor Hind or Alcorn explicitly disclose the use of a secure module. Graunke teaches the use of a secure module where keys are stored (Abstract, 4:2-7, 8:17-31, 8:61-9:11).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind with the method of authenticating game data sets in an electronic casino gaming system of Alcorn further with the method for securely distributing a conditional use private key to a trusted entity on a remote system of

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Graunke for the purpose of allowing a fundamentally insecure, open PC to execute software which cannot be observed or modified in order to enable trusted access to encrypted digital content.

53. As per claim 20

Graunke further teaches using the secure access module to decrypt the code (4:2-7, 8:61-9:16).

However this represents a nominal recitation of structure in a method claim. In order to receive patentable weight in a method claim the recitations of structure must affect the method in a manipulative sense and not amount to mere recitations of structure "As to the rejection of the claims on the prior art references, we do not agree with the appellant that such structural limitations as are not disclosed by the references should be given patentable weight. This argument is applicable to claims drawn to structure and not claims drawn to a method. To be entitled to such weight in method claims, the recited structural limitations therein must affect the method in a manipulative sense and not to amount to the mere claiming of a use of a particular structure, which, in our opinion, is the case here", *Ex parte Pfeiffer*, 135 USPQ 31 (BdPatApp&Int 1961).

54. As per claims 22 and 35

Rowe discloses a memory device for storing executable code for a plurality of games (9:21-56, 20:1-21)

Rowe discloses that the encrypted executable code includes first game code necessary to operate a game on the gaming device in a first jurisdiction (Figure 3, 13:50-65, 14:7-8)

Rowe discloses that the encrypted executable code includes second game code necessary to operate a game on the gaming device in a second jurisdiction (Figure 3, 13:50-65, 14:7-8)

Rowe discloses wherein the first game code includes a first set of operating data including at least one of first audio data or first video data for generating the game on the gaming device in the first jurisdiction, and wherein the second game code includes a second set of operating data including at least one of second audio data or second video data for generating the game on the gaming device in the second jurisdiction (Figures 2 and 3, 4:41-51, 9:50-65, 13:50-65).

Rowe discloses a mechanism for receiving elements of value (20:1-21)

Rowe discloses a mechanism for making a bet (19:28-67)

Rowe discloses a display for displaying the outcome of a game (19:28-67)

Rowe discloses a programmable memory (20:1-21)

Rowe discloses a controller (20:1-21)

Per claim 35 Rowe discloses communication link between the gaming device and the remote device (20:46-60, 21:3-24)

However Rowe does not explicitly disclose that the first set of code is encrypted with a first key associated with the first jurisdiction. Hind teaches that the first set of code is encrypted with a first key associated with the first jurisdiction (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches that a second set of code encrypted with a second key is associated with a second jurisdiction (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches that the second set of code is not recoverable with the first key and the first set of code is not recoverable with the second key (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches wherein when the private key is the first key, and the local jurisdiction is the first jurisdiction, decrypting by the device the first set of code according to the first key to recover the first game code and the first set of operating data as decrypted first set of code and a decrypted first set of operating data, respectively (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches wherein when the private key is the second key, and the local jurisdiction is the second jurisdiction, decrypting by the device the second set of code according to the second key to recover the second set of code and the second set of operating data as decrypted second set of code and decrypted second set of operating data, respectively (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches storing on the device the first set of code, including the first set of operating data, encrypted with the first key and the second set of code, including the second set of operating data, encrypted with the second key (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches executing the decrypted first or second set of code on the device using the decrypted first or second set of operating data (37:1-21) (As no definition of “operating data” has been supplied in the claim Examiner views the document of Hind to fall under the broadest reasonable interpretation of the term).

Hind teaches storing the decrypted first or second set of code on the device (37:1-21).

Hind teaches receiving a private key (29:42-51, 29:66-30:12)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind for the purpose of providing a technique with which security policy can be efficiently enforced in a complex distributed network computing environment (5:28-30).

Neither Rowe nor Hind explicitly disclose authentication. Alcorn teaches authentication (Abstract, 2:47-65, 3:37-43, 8:32-9:16)

Alcorn teaches taking remedial action when the authentication fails (9:6-16).

Per claim 35 Alcorn also teaches a remote device receiving information relating to the code (2:47-65).

Per claim 35 Alcorn teaches authenticating the code (2:47-65)

Per claim 35 Alcorn teaches sending a message to the gaming device as to whether the code is authentic (9:9-16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind further with the method of authenticating game data sets in an electronic casino gaming system of Alcorn for the purpose of being able to modify the game parameters of a game currently being played on a game system without requiring physical verification of new games or game modifying data sets.

Neither Rowe nor Hind or Alcorn explicitly disclose the use of a secure module. Graunke teaches the use of a secure module where keys are stored (Abstract, 4:2-7, 8:17-31, 8:61-9:11).

Graunke further teaches using the secure access module to decrypt the code (4:2-7, 8:61-9:16)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind with the method of authenticating game data sets in an electronic casino gaming system of Alcorn further with the method for securely distributing a conditional use private key to a trusted entity on a remote system of Graunke for the purpose of allowing a fundamentally insecure, open PC to execute software which cannot be observed or modified in order to enable trusted access to encrypted digital content.

The recitations of claims 22 and 35 “operable to...”, “configured to...”, “capable of...” are not entitled to patentable weight as the claims are directed towards an apparatus and do not recite any structural limitations but merely intended use of the structure. See MPEP § 2106 II C, MPEP § 2111.04 and MPEP § 2114.

In addition the recitations regarding the nature of the game code and the operating data are not entitled to patentable weight as these are merely non-functional descriptive material “Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability [T]he critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate” *In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II.

55. As per claim 24

Rowe further discloses wherein the controller includes a processor in communication with the programmable memory (20:1-25).

56. As per claim 25

Rowe further discloses wherein the programmable memory comprises RAM (20:1-21).

57. As per claim 26

Rowe further discloses including a communications link associated with the controller permitting the first set of operating data and the second set of operating data to be transmitted to the gaming device from a remote location (20:46-60).

58. As per claim 29

Rowe discloses game code (Figures 2 and 3, 4:41-51, 9:50-65, 13:50-65).

Hind teaches that code is selectively encrypted (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind for the purpose of providing a technique with which security policy can be efficiently enforced in a complex distributed network computing environment (5:28-30).

Neither Rowe nor Hind teaches a digital signature. Alcorn teaches a digital signature (8:59-9:40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind further with the method of authenticating game data sets in an electronic casino gaming system of Alcorn for the purpose of being able to modify the game parameters of a game currently being played on a game system without requiring physical verification of new games or game modifying data sets.

However as the claim is directed towards an apparatus the recitation is not limiting as no further structural limitation is being recited per MPEP § 2111.04 and MPEP § 2114.

59. As per claim 30

Rowe discloses game code (Figures 2 and 3, 4:41-51, 9:50-65, 13:50-65).

Hind teaches that code is selectively encrypted (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind for the purpose of providing a technique with which security policy can be efficiently enforced in a complex distributed network computing environment (5:28-30).

Neither Rowe nor Hind teaches information relating to the code is sent to the remote device. Alcorn teaches information relating to the code being sent to the remote device (2:47-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind further with the method of authenticating game data sets in an electronic casino gaming system of Alcorn for the purpose of being able to modify the game parameters of a game currently being played on a game system without requiring physical verification of new games or game modifying data sets.

However as the claim is directed towards an apparatus the recitation is not limiting as no further structural limitation is being recited per MPEP § 2111.04 and MPEP § 2114.

60. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe in view of Hind in view of Alcorn in view of Graunke as applied to claim 22 above, and further in view of Carloganu et al. (U.S. Patent 6,226,749, hereinafter referred to as Carloganu).

61. As per claim 28

Rowe discloses game code, Hind teaches selective encryption, Alcorn teaches authentication and Graunke teaches a secure module, however neither Rowe nor Hind or Alcorn or Graunke explicitly disclose a remedial action of erasing keys or data. Carloganu teaches the erasing of keys following authentication that has failed (17:42-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind with the method of authenticating game data sets in an electronic casino gaming system of Alcorn with the method for securely distributing a conditional use private key to a trusted entity on a remote system of Graunke further with the method and apparatus for operating resources under control of a security module or other secure processor for the purpose of allowing an external application software program to access critical resources in a secured manner (2:19-21).

However as the claim is directed towards an apparatus the recitation is not limiting as no further structural limitation is being recited per MPEP § 2111.04 and MPEP § 2114.

62. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe in view of Hind in view of Alcorn as applied to claim 18 above, and further in view of Carloganu.

63. As per claim 32

Rowe discloses game code, Hind teaches selective encryption, Alcorn teaches authentication, however neither Rowe nor Hind or Alcorn explicitly disclose a remedial action of erasing keys or data. Carloganu teaches the erasing of keys following authentication that has failed (17:42-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind with the method of authenticating game data sets in an electronic casino gaming system of Alcorn further with the method and apparatus for operating resources under control of a security module or other secure processor for the purpose of allowing an external application software program to access critical resources in a secured manner (2:19-21).

However as the claim does not positively recite a step of erasing it is not limiting per MPEP § 2106 II C.

64. Claims 41-42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe in view of Hind.

65. As per claim 41

Rowe discloses receiving from a remote device a plurality of blocks of executable game code associated with a plurality of jurisdictions (5:57-58, 8:23-39, 12:34-47, 13:58-65, claims 3 and 6).

Rowe discloses executing game code on the gaming device (3:61-4:32).

However Rowe does not explicitly disclose that the first set of code is encrypted with a first key associated with the first jurisdiction. Hind teaches that the first set of code is encrypted with a first key associated with the first jurisdiction (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50) (Examiner views the disclosure of the second and third policies with separate encryption keys and separate communities to be equivalent to "jurisdictions" per the definitions shown above).

Hind teaches that a second set of code encrypted with a second key is associated with a second jurisdiction (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hind teaches that the second set of code is not recoverable with the first key and the first set of code is not recoverable with the second key (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50)

Hinds teaches decrypting the code with the appropriate key (Abstract, Figure 4B1, Figure 4C1, Figure 7A, Figure 7C, Figure 8A, Figure 8B, 15:55-16:50).

Hind teaches sending keys appropriate to the jurisdiction (29:66-30:12)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind for the purpose of providing a technique with which security policy can be efficiently enforced in a complex distributed network computing environment (5:28-30).

66. As per claim 42

Rowe further discloses wherein the private key is received from a memory of the gaming device (21:25-45) (As Rowe discloses that the gaming machine decrypts the software components it would be inherent that the decryption key be in the memory of the gaming device).

However this is simply a nominal recitation of structure in a method claim as no manipulative effect is made on the method by virtue of where the key is obtained. In order to receive patentable weight in a method claim the recitations of structure must affect the method in a manipulative sense and not amount to mere recitations of structure "As to the rejection of the claims on the prior art references, we do not agree with the appellant that such structural limitations as are not disclosed by the references should be given patentable weight. This argument is applicable to claims drawn to structure and not claims drawn to a method. To be entitled to such weight in method claims, the recited structural limitations therein must affect the method in a manipulative

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sense and not to amount to the mere claiming of a use of a particular structure, which, in our opinion, is the case here", *Ex parte Pfeiffer*, 135 USPQ 31 (BdPatApp&Int 1961).

67. As per claim 44

Hind further teaches that the private key is received from the remote device (29:66-30:12).

However this is simply a nominal recitation of structure in a method claim as no manipulative effect is made on the method by virtue of where the key is obtained. In order to receive patentable weight in a method claim the recitations of structure must affect the method in a manipulative sense and not amount to mere recitations of structure "As to the rejection of the claims on the prior art references, we do not agree with the appellant that such structural limitations as are not disclosed by the references should be given patentable weight. This argument is applicable to claims drawn to structure and not claims drawn to a method. To be entitled to such weight in method claims, the recited structural limitations therein must affect the method in a manipulative sense and not to amount to the mere claiming of a use of a particular structure, which, in our opinion, is the case here", *Ex parte Pfeiffer*, 135 USPQ 31 (BdPatApp&Int 1961).

68. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe in view of Hind as applied to claim 41 above, and further in view of Graunke.

69. As per claim 43

Rowe discloses game code and Hind teaches selective encryption, however neither Rowe nor Hind explicitly disclose that the private key is received from a secure

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access module. Graunke teaches receiving keys from a secure access module (Abstract, 4:2-7, 8:17-31, 8:61-9:11).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the gaming terminal data repository and information distribution system of Rowe with the selective data encryption using style sheet processing for decryption by a client proxy of Hind further with the method for securely distributing a conditional use private key to a trusted entity on a remote system of Graunke for the purpose of allowing a fundamentally insecure, open PC to execute software which cannot be observed or modified in order to enable trusted access to encrypted digital content.

However this is simply a nominal recitation of structure in a method claim as no manipulative effect is made on the method by virtue of where the key is obtained. In order to receive patentable weight in a method claim the recitations of structure must affect the method in a manipulative sense and not amount to mere recitations of structure "As to the rejection of the claims on the prior art references, we do not agree with the appellant that such structural limitations as are not disclosed by the references should be given patentable weight. This argument is applicable to claims drawn to structure and not claims drawn to a method. To be entitled to such weight in method claims, the recited structural limitations therein must affect the method in a manipulative sense and not to amount to the mere claiming of a use of a particular structure, which, in our opinion, is the case here", *Ex parte Pfeiffer*, 135 USPQ 31 (BdPatApp&Int 1961).

Please note:

A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Applicant(s) are reminded that optional or conditional elements do not narrow the claims because they can always be omitted. See *e.g.* MPEP §2106 II C: “Language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. [Emphasis in original.]”; and *In re Johnston*, 435 F.3d 1381, 77 USPQ2d 1788, 1790 (Fed. Cir. 2006) (“As a matter of linguistic precision, optional elements do not narrow the claim because they can always be omitted.”).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES D. NIGH whose telephone number is (571)270-5486. The examiner can normally be reached on Monday-Friday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin L. Hewitt II can be reached on 571-272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/JAMES D NIGH/
Examiner, Art Unit 3685

/Calvin L Hewitt II/
Supervisory Patent Examiner, Art Unit 3685